

IN THE SUPREME COURT OF THE STATE OF NEVADA

OHIO SECURITY INSURANCE
COMPANY; OHIO CASUALTY
INSURANCE COMPANY; PEERLESS
INDEMNITY INSURANCE COMPANY;
AND WEST AMERICAN INSURANCE
COMPANY,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
TIMOTHY C. WILLIAMS, JUDGE
PRESIDING,


Respondents,

O.G., A MINOR CHILD,
INDIVIDUALLY; BRYAN GALLAGHER,
AS GUARDIAN AD LITEM OF O.G.;
CAMILLE GALLAGHER, AS
GUARDIAN AD LITEM OF O.G.; KEITH
HALEY, INDIVIDUALLY; JEREME
BOTIZ, INDIVIDUALLY; JAMES HU,
INDIVIDUALLY; RICHARD BELSKY,
INDIVIDUALLY; YVONNE ARNONE,
INDIVIDUALLY; PATRICIA
SUTHERLAND, AS HEIR OF
KATHLEEN MUSTAIN RYERSON,
DECEASED; RICHARD RYERSON, AS
HEIR OF KATHLEEN MUSTAIN
RYERSON, DECEASED; JUDITH
RYERSON, IN HER CAPACITY AS THE
SPECIAL ADMINISTRATRIX OF THE
ESTATE OF KATHLEEN RYERSON
(DECEDENT) AND AS HEIR OF

No. 90777

FILED

APR 16 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

KATHLEEN MUSTAIN RYERSON,
DECEASED,
Real Parties in Interest.

ORDER GRANTING PETITION

This is an original petition for a writ of mandamus challenging a district court order denying a motion to dismiss a third-party complaint.

Petitioners Ohio Security Insurance Co., Ohio Casualty Insurance Co., Peerless Indemnity Insurance Co., and West American Insurance Co. (collectively Liberty) are insurers of Real Water Inc. Real Parties in Interest (RPIs) are individuals who were allegedly harmed by Real Water's products. In May 2021, RPIs brought personal injury and products liability actions against Real Water (the Gallagher Action). Real Water subsequently filed for bankruptcy. Shortly thereafter, RPIs and the bankruptcy trustee in Real Water's bankruptcy proceedings entered into a stipulation, which granted relief from the bankruptcy stay by allowing the Gallagher Action to proceed with the agreement that any adverse judgments would be satisfied by Real Water's insurance coverage. The bankruptcy court approved the stipulation.

Liberty subsequently filed an adversary proceeding in the bankruptcy court against Real Water, seeking a declaration that Real Water's insurance policies with Liberty did not cover the events and costs associated with the Gallagher Action. Liberty twice sought to settle with the bankruptcy trustee in the adversary proceeding, seeking a settlement that would, among other things, limit the amount that Liberty would pay to cover damages arising from the Gallagher Action. The bankruptcy court denied both proposed settlements.

The Gallagher Action resulted in a jury verdict awarding RPIs compensatory and punitive damages. RPIs then filed a third-party complaint (TPC) against Liberty in the Gallagher Action, alleging intentional interference with contract and intentional interference with an economic benefit based on Liberty's attempted settlements with the bankruptcy trustee. In sum, RPIs allege that Liberty's twice-failed settlements with the bankruptcy trustee were an attempt to circumvent or otherwise upend the stipulation associated with the lifting of the bankruptcy stay. Namely, RPIs complain that the settlements sought to prevent RPIs from collecting any damages received in the Gallagher Action from Real Water's insurance coverage. Liberty moved to dismiss the TPC, arguing that the litigation privilege barred RPIs' claims, and the district court denied the motion. Liberty now seeks a writ of mandamus.

We exercise our original jurisdiction to entertain the merits of this petition

The decision to issue a writ of mandamus is purely discretionary, *Otak Nev., LLC v. Eighth Jud. Dist. Ct.*, 129 Nev. 799, 804, 312 P.3d 491, 495 (2013), and the petitioner bears the burden of showing that such relief is warranted, *Pan v. Eighth Jud. Dist. Ct.*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). "Generally, this court will not consider a writ petition challenging an interlocutory order denying a motion to dismiss because an appeal from a final judgment is an adequate and speedy legal remedy." *Freeman Expositions, LLC v. Eighth Jud. Dist. Ct.*, 138 Nev. 775, 777, 520 P.3d 803, 807 (2022). But this court will consider such petitions when "no factual dispute exists and the district court is obligated to dismiss an action pursuant to clear authority under a statute or rule." *Id.* (citation modified). Further, we consider writ petitions challenging motions to dismiss where a privilege applies. *See Mitchell v. Eighth Jud. Dist. Ct.*, 131

Nev. 163, 167, 359 P.3d 1096, 1099 (entertaining writ petition where discovery order directed disclosure of privileged information because “a later appeal may not be an effective remedy”).

We exercise our discretion to entertain Liberty’s writ petition because no factual disputes exist, and the district court is obligated to dismiss the TPC because the litigation privilege applies.

RPIs’ claims are barred by the litigation privilege

Nevada follows “the long-standing common law rule that communications uttered or published in the course of judicial proceedings are absolutely privileged.” *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 60, 657 P.2d 101, 104 (1983). The privilege immunizes “communicative acts occurring in the course of judicial proceedings, even if those acts would otherwise be tortious.” *Greenberg Traurig, LLP v. Frias Holding Co.*, 130 Nev. 627, 628, 331 P.3d 901, 902 (2014). For the privilege to apply, “(1) a judicial proceeding must be contemplated in good faith and under serious consideration, and (2) the communication must be related to the litigation.” *Cnty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 382, 213 P.3d 496, 502 (2009). Within these bounds we apply the privilege “liberally, resolving any doubt in favor of its relevancy or pertinency.” *Fink v. Oshins*, 118 Nev. 428, 433-34, 49 P.3d 640, 644 (2002) (citation modified). Whether the absolute litigation privilege applies is a question of law reviewed de novo. *See Virtual Educ. Software*, 125 Nev. at 382, 213 P.3d at 502.

We conclude that RPIs’ claims are barred by the litigation privilege because the allegations in the TPC are based on communicative

acts occurring in the course of judicial proceedings.¹ RPIs make several arguments that the TPC is premised on conduct, asserting that any communications are merely incidental. For instance, RPIs allege that Liberty engaged in a “decades long” scheme to evade paying claims and “intended . . . to disrupt the contractual relationship” between RPIs and the bankruptcy trustee. While such schemes, if they exist, contextualize Liberty’s conduct, RPIs’ alleged harm derives directly from Liberty’s acts and statements related to Liberty’s attempts to settle with the bankruptcy trustee, the filing of motions to approve the settlement agreements and the lodging of a complaint for injunctive relief in bankruptcy court. Such court filings constitute communicative acts, which are privileged. *See Williams v. Lazer*, 137 Nev. 437, 445, 495 P.3d 93, 100 (concluding that statements contained in a complaint are protected by the litigation privilege); *Sahara Gaming Corp. v. Culinary Workers Union Loc. 226*, 115 Nev. 212, 218, 984 P.2d 164, 167 (1999) (litigation privilege extends to formal complaints). Further, it is undisputed that these communicative acts were made in a judicial proceeding and related to the subject litigation. *See Virtual Educ. Software*, 125 Nev. at 383, 213 P.3d at 503. Accordingly, we find that Liberty’s actions are protected by the litigation privilege, and we²

¹RPIs argue that the litigation privilege cannot apply because the bankruptcy trustee is a non-attorney. Our litigation privilege jurisprudence is clear that the absolute litigation privilege is not limited to attorneys. *Virtual Educ. Software*, 125 Nev. at 383, 213 P.3d at 502.

²We have considered the parties’ other arguments not specifically addressed in this order and conclude they lack merit or do not otherwise alter our determination.

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to vacate its order denying Liberty's motion to dismiss and enter an order dismissing RPIs' case on the basis that it is barred by the absolute litigation privilege.

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Lee, J.
Lee

cc: Hon. Timothy C. Williams, District Judge
McCormick, Barstow, Sheppard, Wayte & Carruth, LLP/Las Vegas
Hinshaw & Culbertson LLP/Los Angeles
Spencer Fane LLP/Las Vegas
Kemp Jones, LLP
Parker, Nelson & Associates
Eighth District Court Clerk